IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1754 OF 2003

Smt.S. Ramakumari. .. Petitioner

Vs.

State of Maharashtra & Anr. .. Respondents

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None for the Petitioner.

Shri B.H.Mehta, APP for the Respondent No.1.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 24th JANUARY, 2005.

1. None present for the Petitioner. Perused the records.

2. The Petitioner challenges the order issuing process under Section 138 of the Negotiable Instruments Act. The case of the Petitioner is that the Petitioner had left certain blank cheques duly signed by the Petitioner with the company and those cheques have been misused, and based on the same, the complaint has been filed. The trial Court, while considering the said objection and dealing with the recall of the process, by its impugned order dated 15th July, 2003 has observed that "all the grounds

raised in the application can only be looked into at the time of trial and at this stage merely on the basis of the application, those grounds cannot be considered." Indeed, the trial Court is clearly justified in observing that the defence which is sought to be raised by the Accused cannot by itself a justification for recall of the process issued against the Petitioner. The defence will have to be decided at the time of trial and only thereupon the trial Court will be able to arrive at an appropriate decision in the matter. It is too premature for this Court to direct recall of the process, once it is, prima facie, shown that the cheques under the signature of the Petitioner have been dishonoured. Being so, there being no illegality committed by the Magistrate in issuing the process, in the facts and circumstances of the case, there is no case made out for interference in the impugned order issuing the process in exercise of writ jurisdiction under Article 227 of the Constitution of India. Hence, the petition is rejected.